

From: Russell Ryan <rkr@mmwbr.com>
Sent time: 07/21/2020 07:01:06 PM
To: David Pitman <davidp@functiono.onmicrosoft.com>; Jan Perkins <jperkins@bakermanock.com>; Riley Walter <rwalter@wjhattorneys.com>
Cc: Crystal Brightwell <crystal@mmwbr.com>
Subject: Arkk - Status

David, Jan and Riley,

My apologies for the delay. I was in an extended contested hearing yesterday followed by two meetings and didn't finish until late. Today has been more of the same.

The Arkk arbitration was hotly contested and, as noted in prior email correspondence, we were in the midst of document wars and dueling motions to compel (which we largely prevailed) at the time of the bankruptcy filing. Ruby was helping and was somewhat familiar with their unreasonable demands.

The lawyers are super-aggressive and were claiming like \$14 million in damages in the demand. My marching orders were to extend the arbitration proceeding until the end of 2019 (I think to get past certain preference periods) then continue to string it out until a decision was made about bankruptcy, which we were, for better or worse, able to accomplish.

We had our counterclaims and claims of offset and waiver in light of their acceptance of less commissions than the contract arguably provided for, and their interpretation of the contract and damage claims were wildly skewed in Arkk's favor. If arbitration resumes I expect their attempts at scorched-earth arbitration will continue. I would tend to think you would want a bankruptcy court valuing the claim over an arbitrator, but that is an obvious judgment call and just a default position

I have a call in to Arkk's attorneys to discuss their joinder petition and to take their temperature on settlement discussions. I haven't heard back yet, but will follow up in the morning. They are generally responsive.

Having said that, they will want some serious money to settle, especially if they think they have some sort of leverage or that you have a fund from which to pay.

Is there an amount or range I can work with to see where negotiations might go? Or would you like to have a call in the morning to discuss.

Please let me know. Thanks!

Regards,

Russ

Russell K. Ryan, Esq.
MOTSCHIEDLER, MICHAELIDES, WISHON
BREWER & RYAN, LLP
1690 W. Shaw Avenue, Suite 200
Fresno, California 93711
Telephone: (559) 439-4000
Facsimile: (559) 439-5654
Email: rkr@mmwbr.com

WARNING/CONFIDENTIAL: I removed the warnings and confidentiality statements since no one reads them anyway and they make my messages too long. But if you get this email in error, don't read it. But if you made it down this far, you already have, so please delete it from your system and your memory. Thank you.